

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

I-ENTERPRISE CO.,

Plaintiff,

v.

DRAPER FISHER JURVETSON  
MANAGEMENT CO., et al.,

Defendants.

No. C-03-01561 MMC (EDL)

**ORDER ON: (A) DEFENDANTS' MOTION TO COMPEL (1) FURTHER DEPOSITION TESTIMONY FROM STEPHEN ROY CONCERNING CLAIMS ADDED BY I-ENTERPRISE COMPANY LLC's THIRD AMENDED COMPLAINT ("TAC"), (2) FURTHER DEPOSITION TESTIMONY OF IEC EXPERT THOMAS L. PORTER, PH.D. ON DOCUMENTS NOT TIMELY PRODUCED BY IEC'S COUNSEL, (3) RESPONSES TO DEFENDANTS' REQUESTS FOR ADMISSION, INTERROGATORIES AND DOCUMENT REQUESTS ON CLAIMS ADDED BY THE TAC, AND (4) SUPPLEMENTAL DOCUMENT PRODUCTION ON DEFENDANTS' REQUESTS FOR PRODUCTION ON CLAIMS ADDED BY IEC'S TAC; AND (B) IEC's MOTION TO REOPEN THE DEPOSITION OF PAUL GOMPERS**

Presently before the Court are: (A) the motion of Defendants, Draper Fisher Jurvetson Management Company V, LLC ("Fund V LLC"), Draper Fisher Jurvetson Management Co. VI, LLC ("Fund VI LLC"), Timothy C. Draper, John H. N. Fisher and Stephen T. Jurvetson (collectively, "Defendants"), for an order compelling: (1) further deposition testimony from Stephen Roy concerning claims added by I-Enterprise Company LLC ("IEC") in its Third Amended Complaint ("TAC") and the note passed to him by his counsel during the deposition, for production of the note shown to him by IEC's counsel and ordering that IEC's

1 counsel not engage in speaking objections during any further deposition of Mr. Roy; (2) further deposition  
2 testimony from IEC's testifying expert Thomas L. Porter, Ph.D. concerning the contents of Dr. Porter's  
3 documents not produced by IEC until after his deposition and any related conversations with IEC's in-house  
4 and outside counsel concerning same; (3) responses to Draper Fisher Jurvetson Management Co. VI, LLC's  
5 Third Request For Production Of Documents To I-Enterprise Company LLC; (4) responses to Draper Fisher  
6 Jurvetson Management Company V, LLC's Fourth Set Of Interrogatories To I-Enterprise Company LLC;  
7 (5) responses to First Requests For Admission of Draper Fisher Jurvetson Management Company V, LLC  
8 To I-Enterprise Company LLC; (6) responses to First Requests for Admission of Draper Fisher Jurvetson  
9 Management Co. VI, LLC To I-Enterprise Company LLC; (7) responses to First Requests For Admission  
10 By Timothy C. Draper To I-Enterprise Company LLC; (8) responses to First Requests For Admission By  
11 John H. N. Fisher To I-Enterprise Company LLC; and (9) responses to First Requests For Admission By  
12 Stephen T. Jurvetson To I-Enterprise Company LLC; and (B) IEC's motion to reopen the deposition of non-  
13 party Paul Gompers ("Prof. Gompers").  
14

15 Having considered the parties' respective moving papers, opposition papers, the declarations and  
16 responses submitted by Prof. Gompers, the evidence and arguments presented at oral argument and the case  
17 record, the Court finds that each of Defendants' and IEC's motions are HEREBY GRANTED IN PART  
18 AND DENIED IN PART.  
19

20 With respect to Defendants' motion, IT IS HEREBY ORDERED that:

21 (1) IEC's counsel, Elliot Peters, shall submit by November 15, 2005 a declaration attaching for  
22 the Court's *in camera* review the note he showed to Mr. Stephen Roy during Mr. Roy's September 22, 2005  
23 deposition. If that note has been discarded, Mr. Peters shall provide the details of his search for the note in  
24 a publicly-filed declaration and shall also provide a separately lodged declaration describing the text of the note  
25 for the Court's *in camera* review. The Court defers its ruling on Defendants' motion to compel further  
26 testimony from Mr. Roy until after the Court has completed its *in camera* review of the note and/or Mr. Peters'  
27 declarations;

28 (2) With respect to Defendants' motion for further deposition testimony from IEC's testifying

expert Thomas L. Porter, Ph.D., the Court denies Defendants' motion as moot;

(3) IEC shall produce to Defendants' counsel by November 18, 2005 all monthly, quarterly and annual reports prepared by I-Group Hotbank, as called for in Request No. 84 of Draper Fisher Jurvetson Management Co. VI, LLC's Third Request For Production Of Documents To I-Enterprise Company LLC; and

(4) IEC shall serve by November 18, 2005 revised responses to Request No. 10 of the First Requests for Admission of Draper Fisher Jurvetson Management Co. VI, LLC To I-Enterprise Company LLC, and Request No. 3 of First Requests For Admission By Timothy C. Draper To I-Enterprise Company LLC.

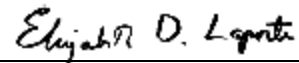
With respect to IEC's motion to reopen the deposition of Prof. Gompers, IT IS HEREBY ORDERED that:

(1) Defendants shall produce Prof. Gompers for up to two additional hours of testimony. IEC's further deposition shall be limited to questions concerning the offering memoranda referenced in Prof. Gompers' expert report, including their contents, his conclusions based on their contents, and how those offering memoranda and resulting contents affected his opinions in this case; and

(2) Prof. Gompers' further deposition shall be held at a place and time mutually agreed upon by counsel for IEC and Defendants.

**IT IS SO ORDERED.**

Dated: November 16, 2005



ELIZABETH D. LAPORTE

United States Magistrate Judge